

SIKES ACT REAUTHORIZATION ACT OF 2013

JUNE 24, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 910]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 910) to reauthorize the Sikes Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 910 is to reauthorize the Sikes Act.

BACKGROUND AND NEED FOR LEGISLATION

The Department of Defense (DOD) controls over 28 million acres of valuable fish and wildlife habitat at 511 military installations nationwide. These lands contain a wealth of plant and animal life, wetlands for migratory birds and 420 endangered and threatened species. Enacted in 1960, the Sikes Act (16 U.S.C. 670a–670o) has been extended a number of times, with the most recent effort in the National Defense Authorization Act for Fiscal Year 2010. Under Public Law 111–84, Title I of the Sikes Act was extended until September 30, 2014, and the existing annual funding levels of \$1.5 million for DOD and \$3 million for the Department of the Interior through the Fish and Wildlife Service (FWS) were retained. However, neither DOD nor FWS receives a direct appropriation for this program. Instead, the nearly \$60 million that has been spent during the past ten fiscal years in support of Sikes Act activities has been consistently funded through general administrative funds.

Prior to the Sikes Act Implementation Act of 1997 (P.L. 105-85), DOD was able to enter into voluntary "cooperative plans" with the

Secretary of the Interior and the appropriate state fish and wildlife agency to carry out a program to plan, develop, maintain and coordinate fish and wildlife conservation efforts on military lands. In addition, the cooperative plans could allow for the issuance of special hunting and fishing permits with the proceeds used for such things as habitat improvement. These plans were neither uniform nor comprehensive in their requirements and DOD was not required to implement them.

Under current law, DOD is required to complete a comprehensive Integrated Natural Resource Management Plan (INRMP) for each of its installations. These plans must be updated annually by the base commanders and FWS and the affected State must re-confirm these documents no less than every five years. The only exception involves those bases that do not have any significant fish, wildlife or natural resources. DOD believes 341 military installations are required to complete INRMPs. The Department also has noted that it defines an INRMP as "an integrated plan based, to the maximum extent practicable, on ecosystem management that shows the interrelationships of individual components of natural resources management to mission requirements and other land use activities affecting an installation's natural resources." These plans include the following components: fish and wildlife management and wildlife-oriented recreation; fish and wildlife habitat enhancement; wetland protection; establishment of specific management goals; public use of natural resources; enforcement of all natural resource laws; and how a "no net loss" of military lands would be ensured. The law allows for a public comment period for each INRMP, requires that each plan be completed within two years, stipulates that a sufficient number of professional trained natural resource management personnel complete these plans, and requires an annual report to Congress.

The fundamental goals of INRMPs are to assist installation commanders in their efforts to conserve and rehabilitate natural resources and to balance the use of air, land and water resources for military training and testing with the need to conserve wildlife resources for future generations. They are a comprehensive approach to ecosystem management in a holistic, proactive way that protects endangered species and their habitats. In fiscal year 2011, 92 INRMPs were reviewed at a cost of \$3.9 million, or approximately \$42,800 per plan.

On November 24, 2003, the National Defense Authorization Act (P.L. 108-136) was signed into law and it modified a number of Sikes Act provisions. Among the changes was one to the Endangered Species Act which precluded the designation of critical habitat on DOD lands subject to an INRMP under the Sikes Act. This was an important modification because an increasing amount of military lands were being designated as "critical habitat" which restricted an increasing number of military training activities. To date, 51 military installations have been exempted from critical habitat designation without any significant impact on the listed species residing on those bases. This measure also extended the Sikes Act until September 30, 2008.

During the 112th Congress, the Sikes Act was further revised by a provision stipulating that 47 State-owned National Army Guard

facilities would come under the jurisdiction of the DoD for developing and implementing an INRMP.

The fundamental goal of H.R. 910 is to extend the authorization of appropriations for Title 1 of this highly successful conservation law until September 30, 2019. However, the DOD needs to do a better job of implementing the provisions of the Disabled Sportsmen's Access Act of 1998. While base commanders have a difficult job, efforts should be made to provide improved access and adaptive equipment to those brave Americans who have been severely injured in the service of this country. It is understood that 174 military installations provide "at least some degree of access to disabled persons for hunting, fishing and/or other outdoor recreational opportunities." However, the key is not access but accessibility. Based on this criteria, it is unacceptable that only 55 installations out of 511 military bases have such adaptive equipment. This is especially concerning based on the likelihood that this equipment is many times provided to base commanders at no cost to the federal government.

COMMITTEE ACTION

H.R. 910 was introduced on February 28, 2013, by Congressman John Fleming (R-LA). The bill was referred primarily to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. The bill was also referred to the Committee on Armed Services. On March 21, 2013, the Subcommittee held a hearing on the bill. On May 15, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs was discharged by unanimous consent. No amendments were offered, and the bill was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 910—Sikes Act Reauthorization Act of 2013

H.R. 910 would reauthorize the Sikes Act through 2019. That act requires the Department of Defense and the U.S. Fish and Wildlife Service to develop and implement plans to manage natural resources on certain military lands. For those activities, the bill would authorize the appropriation of up to \$4.5 million a year for 2015 through 2019. Under current law, that amount is authorized to be appropriated through 2014.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 910 would cost \$18 million over the 2015–2018 period and \$4.5 million after 2018. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 910 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new credit authority or an increase or decrease in revenues or tax expenditures. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 910 would cost \$18 million over the 2015–2018 period and \$4.5 million after 2018.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to reauthorize the Sikes Act.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does reauthorize a program of the federal government known to be duplicative of another federal program. Such program was identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs. More specifically under the general category of Fish and Wildlife Management Assistance by the U.S. Fish and Wildlife Service, the Sikes Act was grouped with seven other federal laws that provide

funding for this activity, including the Fish and Wildlife Act of 1956, the Fish and Wildlife Coordination Act of 1958, the Alaska National Interest Lands Conservation Act, the Marine Mammal Protection Act of 1972, the Fish and Wildlife Conservation Act of 1980, the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, and the Lacey Act. Related programs were identified as Sport Fish Restoration Program and the Partners for Fish and Wildlife. In addition, under the category of Recovery Act Fund—Habitat Enhancement, Restoration and Improvement by the U.S. Fish and Wildlife Service, the Sikes Act was grouped with nine other statutes. In addition to many of the laws listed for Fish and Wildlife Management Assistance, this list also included the American Recovery and Reinvestment Act of 2009, the Great Lakes Fish and Wildlife Restoration Act, the Partners for Fish and Wildlife Act, and the Endangered Species Act. Related programs for this activity were identified as Sport Fish Restoration program, Fish and Wildlife Management Assistance, Coastal Program, Partners for Fish and Wildlife and Pollution Prevention Grants Program. However, as explained in the background and need portion of this report, Congress does not provide specific appropriations to implement the Sikes Act, but rather the Fish and Wildlife Service takes general funds for these activities, from other statutes and programs described in this section, and uses to meet the goals of the Sikes Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SIKES ACT

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TITLE I—CONSERVATION PROGRAMS ON MILITARY INSTALLATIONS

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SEC. 108. APPROPRIATIONS AND EXPENDITURES.

(a) EXPENDITURES OF COLLECTED FUNDS UNDER INTEGRATED NATURAL RESOURCES MANAGEMENT PLANS.—The Secretary of Defense shall expend such funds as may be collected in accordance with the integrated natural resources management plans agreed to under sections 101 and 102 and cooperative agreements agreed to under section 103a of this title, and for no other purpose. All funds that are so collected shall remain available until expended.

(b) AUTHORIZATION OF APPROPRIATIONS TO SECRETARY OF DEFENSE.—Of the amounts authorized to be appropriated to the Department of Defense, there are authorized to be appropriated to the Secretary of Defense not to exceed \$1,500,000 for each of the [fiscal

years 2009 through 2014] *fiscal years 2015 through 2019*, to carry out this title, including the enhancement of fish and wildlife habitat and the development of public recreation and other facilities, and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 103a. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this section.

(c) AUTHORIZATION OF APPROPRIATIONS TO SECRETARY OF THE INTERIOR.—Of the amounts authorized to be appropriated to the Department of the Interior, there are authorized to be appropriated to the Secretary of the Interior not to exceed \$3,000,000 for each of the [fiscal years 2009 through 2014] *fiscal years 2015 through 2019*, to carry out such functions and responsibilities as the Secretary may have under integrated natural resources management plans to which such Secretary is a party under this section, including those for the enhancement of fish and wildlife habitat and the development of public recreation and other facilities.

(d) USE OF OTHER CONSERVATION OR REHABILITATION AUTHORITIES.—The Secretary of Defense and the Secretary of the Interior may each use any authority available to him under other laws relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this title.

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EXCHANGE OF LETTERS

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

June 19, 2013

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

TODD YOUNG
CHIEF OF STAFF

The Honorable Howard "Buck" McKeon
Chairman, Committee on Armed Services
House of Representatives
2120 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On May 15, 2013, the Committee on Natural Resources ordered reported a slate of bills that were ultimately included as part of H.R. 1960, the National Defense Authorization Act for Fiscal Year 2014. These bills were referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on Armed Services.

Specifically, these bills are H.R. 910, Sikes Act Reauthorization Act of 2013; H.R. 1299, White Sands Missile Range Security Enhancement Act; H.R. 1672, Limestone Hills Training Area Withdrawal Act; H.R. 1673, To provide for the transfer of certain public land currently administered by the Bureau of Land Management to the administrative jurisdiction of the Secretary of the Navy for inclusion in Naval Air Weapons Station China Lake, California; H.R. 1676, Johnson Valley National Off-Highway Vehicle Recreation Area Establishment Act; and H.R. 1691, Chocolate Mountain Aerial Gunnery Range Transfer Act of 2013.

I ask that you allow the Armed Services Committee to be discharged from further consideration of the bills in order for bill reports to be filed. These discharges in no way affect your jurisdiction over the subject matter of the bills, and it will not serve as precedent for future referrals. In addition, should a conference on any of the bills be necessary, I would support your request to have the Committee on Armed Services represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill reports filed by the Committee on Natural Resources to memorialize our understanding.

Thank you for your consideration of my request.

Sincerely,

Doc Hastings
Chairman

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COMMITTEE ON ARMED SERVICES

U.S. House of Representatives

Washington, DC 20515-6035

ONE HUNDRED THIRTEENTH CONGRESS

June 19, 2013

Chairman Doc Hastings
 House Committee on Natural Resources
 1324 Longworth House Office Building
 Washington, D.C. 20515

Dear Chairman Hastings:

Thank you for your letter regarding six bills that were referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on Armed Services, and included as part of H.R. 1960, the National Defense Authorization Act for Fiscal Year 2014. This includes H.R. 910, Sikes Act Reauthorization Act of 2013; H.R. 1299, White Sands Missile Range Security Enhancement Act; H.R. 1672, Limestone Hills Training Area Withdrawal Act; H.R. 1673, To provide for the transfer of certain public land currently administered by the Bureau of Land Management to the administrative jurisdiction of the Secretary of the Navy for inclusion in Naval Air Weapons Station China Lake, California; H.R. 1676, Johnson Valley National Off-Highway Vehicle Recreation Area Establishment Act; and H.R. 1691, Chocolate Mountain Aerial Gunnery Range Transfer Act of 2013.

Our committee recognizes the importance of these bills, and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over these pieces of legislation, I do not intend to request sequential referrals. By waiving consideration of the bills, the Committee on Armed Services does not waive any future jurisdictional claim over the subject matters contained in the bills which fall within its Rule X jurisdiction. Further, should a conference on any of the aforementioned bills be necessary, I request that the Committee on Armed Services be represented during any conference negotiations.

Thank you for your attention to these matters.

Sincerely,

Howard P. "Buck" McKeon
 Chairman

cc: The Honorable John A. Boehner
 The Honorable Adam Smith
 The Honorable Edward J. Markey
 The Honorable Thomas J. Wicker, Jr.